

AMENDED IN ASSEMBLY MARCH 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 209**

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**Introduced by Assembly Member Leslie**

January 28, 2003

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An act to amend Section 54.3 of the Civil Code, relating to disabled persons.

LEGISLATIVE COUNSEL'S DIGEST

AB 209, as amended, Leslie. Disabled persons: liability.

Under existing law, a person, firm, or corporation that interferes with various specified rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than \$1,000.

~~This bill would specify that a person may not be held liable for the damages described above unless the plaintiff provided the defendant with notice of the alleged violation of the Americans with Disabilities Act of 1990 establish notice requirements for a plaintiff to follow before bringing an action against a business for an alleged violation of the Americans with Disabilities Act of 1990 (ADA). The bill would require the plaintiff to provide notice to a business at least 60 days before filing the complaint, the notice identified the specific facts of the alleged violation, and the defendant failed to correct the violation within 60 days and would limit damages to \$2,000 per violation in certain cases in which a plaintiff failed to comply with those notice provisions. The bill would also preclude commencement of an action against a small~~

*business for an ADA violation if the small business has made a good effort to comply with the ADA and other specified conditions are met.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 54.3 of the Civil Code is amended to  
2 read:

3 54.3. (a) Any person or persons, firm or corporation who  
4 denies or interferes with admittance to or enjoyment of the public  
5 facilities as specified in Sections 54 and 54.1 or otherwise  
6 interferes with the rights of an individual with a disability under  
7 Sections 54, 54.1 and 54.2 is liable for each offense for the actual  
8 damages and any amount as may be determined by a jury, or the  
9 court sitting without a jury, up to a maximum of three times the  
10 amount of actual damages but in no case less than one thousand  
11 dollars (\$1,000), and attorney’s fees as may be determined by the  
12 court in addition thereto, suffered by any person denied any of the  
13 rights provided in Sections 54, 54.1, and 54.2. “Interfere,” for  
14 purposes of this section, includes, but is not limited to, preventing  
15 or causing the prevention of a guide dog, signal dog, or service dog  
16 from carrying out its functions in assisting a disabled person.

17 (b) Any person who claims to be aggrieved by an alleged  
18 unlawful practice in violation of Section 54, 54.1, or 54.2 may also  
19 file a verified complaint with the Department of Fair Employment  
20 and Housing pursuant to Section 12948 of the Government Code.  
21 The remedies in this section are nonexclusive and are in addition  
22 to any other remedy provided by law, including, but not limited to,  
23 any action for injunctive or other equitable relief available to the  
24 aggrieved party or brought in the name of the people of this state  
25 or of the United States.

26 (c) A person may not be held liable for damages pursuant to  
27 both this section and Section 52 for the same act or failure to act.

28 ~~(d) A person may not be held liable for damages pursuant to this~~  
29 ~~section for a violation of subdivision (e) of Section 54 or~~  
30 ~~subdivision (d) of Section 54.1 unless all of the following~~  
31 ~~conditions are met:~~



1 ~~(1) At least 60 days before filing the complaint, the plaintiff~~  
2 ~~provided to the defendant notice of the alleged violation of the~~  
3 ~~Americans with Disabilities Act of 1990 (Public Law 101-336).~~

4 ~~(2) The notice identified the specific facts that constitute the~~  
5 ~~alleged violation, including the location at which the violation~~  
6 ~~occurred and the date of the violation.~~

7 ~~(3) The defendant failed to correct the alleged violation within~~  
8 ~~60 days of the date the notice of violation was received.~~

9 *(d) If a small business has made a good faith effort to comply*  
10 *with the Americans with Disabilities Act of 1990 (Public Law*  
11 *101-336), a plaintiff may not commence an action for damages*  
12 *against that small business for a violation of subdivision (c) of*  
13 *Section 54 or subdivision (d) or Section 54.1 unless all of the*  
14 *following conditions are met:*

15 *(1) At least 60 days before filing the complaint, the plaintiff*  
16 *provides the small business with notice of the alleged violation of*  
17 *the Americans with Disabilities Act.*

18 *(2) The notice is sent by certified mail addressed to the owner*  
19 *or manager of the small business. The notice identifies the specific*  
20 *facts that constitute the alleged violation, including the location*  
21 *at which the violation occurred and the date of the violation.*

22 *(3) The small business fails to correct the alleged violation*  
23 *within 60 days of the date the notice of violation was received.*

24 *This subdivision does not apply to a small business that cannot*  
25 *demonstrate it has made a good faith effort to comply with the*  
26 *Americans with Disabilities Act.*

27 *(e) A plaintiff shall make a reasonable effort to provide notice*  
28 *to a small business or a large business of an alleged violation of*  
29 *the Americans with Disabilities Act at least 60 days prior to filing*  
30 *the complaint, in accordance with paragraphs (1) and (2) of*  
31 *subdivision (d). If a plaintiff fails to provide notice to the business,*  
32 *the amount of damages that a plaintiff may recover is limited to two*  
33 *thousand dollars (\$2,000) per violation.*

34 *(f) For purposes of this section, the following definitions apply:*

35 *(1) "Small business" is a business that employs fewer than 50*  
36 *full time employees.*

37 *(2) "Large business" is a business with 50 or more full time*  
38 *employees.*

